

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FILED
U.S. DISTRICT COURT
2004 JUL 26 P 12:41
U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION NO. 03CV12592REK

GAETANO P. DELUCA)

Plaintiff)

v.)

TOWN OF HINGHAM, HINGHAM)
BOARD OF HEALTH, PETER B.)
BICKFORD, CHAIRMAN, RAYMOND E.)
BEALE, JR., RUTH ANNE BECK,)
TREASURER/TAX COLLECTOR,)
BRUCE T. CAPMAN, EXECUTIVE)
HEALTH OFFICER and FIRST HIGH)
STREET TRUST)

Defendants)

Defendants' Motion to Dismiss

The Defendants Town of Hingham, Town of Hingham Board of Health, Peter B. Bickford, Raymond E. Beale, Jr., Ruth Anne Beck, and Bruce T. Capman, ("defendants") have moved the Court to dismiss all counts of the Complaint because no count states a claim upon which relief can be granted. Fed.R.Civ.P.12(b)(6). Accordingly, the Court should dismiss the Complaint and enter judgment in favor of the defendants on all counts.

The Complaint does not allege a viable claim against any defendant under the civil rights laws of the United States or the Commonwealth of Massachusetts because it does not allege a deprivation of a federally protected right, nor interference with any civil right under federal or

state law. Count I of the complaint fails to allege a cause of action against the defendants for defamation as there is no allegation that the defendants made any defamatory statements against the plaintiff.

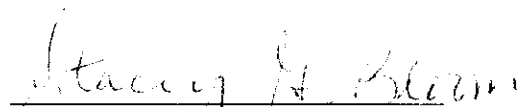
The defendants are also not liable for claims under Counts IV, VI, X, XI, XII, XIII, XI, XIV, XV, XVII, XVIII, XXI as all of the alleged actions took place in the 1980s well beyond the statute of limitations. Additionally, the plaintiff has failed to state a claim upon which relief can be granted in Counts II, III, V, VI, VII, VIII, IX, X, XI, XVI, XIX, XX, XXI, and XXII as the plaintiff has failed to allege either a violation of substantive or procedural due process.

The defendants Memorandum in Support of Motion to Dismiss is filed with this Motion.

Request for Oral Argument

The defendants respectfully request oral argument of their motion.

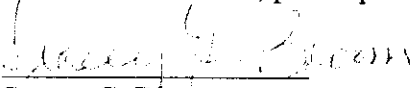
Respectfully Submitted,
Town of Hingham et al
By its attorneys



James A. Toomey, BBO#550220
William P. Breen, Jr. BBO# 558768
Stacey G. Bloom, BBO# 566800
MURPHY, HESSE, TOOMEY & LEHANE, LLP
300 Crown Colony Drive, Suite 410
Quincy, MA 02169
(617) 479-5000

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

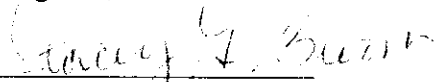
The undersigned attorney certifies that prior to filing the above motion, she conferred in good faith with Mr. DeLuca, pro se plaintiff, to narrow the issues raised by this motion.



Stacey G. Bloom

CERTIFICATE OF SERVICE

I, Stacey G. Bloom, Esq., hereby certify that on this 22nd day of July, 2004, I served a copy of the foregoing document via first class mail, upon the Gaetano DeLuca, pro se, 140 High Street, Hingham, MA 02043.



Stacey G. Bloom